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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
| 09/808,475   | 03/13/2001  | Scott Faber          | 076705-200501/US           | 3558             |
| 64494 7590 03/21/2007<br>GREENBERG TRAURIG, LLP (SV)<br>IP DOCKETING<br>2450 COLORADO AVENUE<br>SUITE 400E<br>SANTA MONICA, CA 90404 |             |                      | EXAMINER<br>LASTRA, DANIEL |                  |
|  |             |                      | ART UNIT<br>3622           | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE            | DELIVERY MODE              |                  |
| 3 MONTHS   |             | 03/21/2007           | PAPER                      |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/808,475

Applicant(s)

FABER ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-14,16-20,22-29 and 31-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-14,16-20,22-29 and 31-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-5, 7-14, 16-20, 22-29 and 31-45 have been examined. Application 09/808,475 (APPARATUS AND METHOD FOR RECRUITING, COMMUNICATING WITH, AND PAYING PARTICIPANTS OF INTERACTIVE ADVERTISING) has a filing date 03/13/2001.

### ***Response to Amendment***

2. In response to Non Final Rejection filed 08/01/2006, the Applicant filed an Amendment on 12/22/2006, which amended claims 1, 9, 10 and 13.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-14, 16-20, 22-29 and 31-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolls (US 6,807,532) in view of Walker (US 6,216,111).

As per claims 1, 16 and 31 Kolls teaches:

A method comprising:

receiving, from one or more users, one or more selections for a selected advertising link from one or more interactive advertising links (see col 46, lines 20-37; col 47, lines 5-30);

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responsive to the one or more selections for the selected advertising link (see col 47, lines 4-30);

establishing a link *for real time communications* between the one or more users and an advertiser of the selected advertising link (see column 47, lines 4-30) and

Kolls fails to teach compensating the one or more users based on various input provided to the advertiser via the link *for real time communications*. However, Walker teaches a system that compensates users based on various input provided to an advertiser via a real time communication link (see Walker column 3, lines 15-55). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Walker would present users with interactive advertisements offers via the Internet as advertisements links, as taught by Kolls in order to allow said users to interact with advertisers and being compensated for said interaction.

As per claims 2, 17 and 33 Kolls teaches:

The method of claim 1, further comprising:

receiving a request from an advertiser to establish an interactive advertising link (see column 47, lines 4-30); and

placing a link for an interactive advertisement among the one or more interactive advertising links (see column 47, lines 4-30).

As per claims 3, 18 and 34 Kolls teaches:

The method of claim 2, further comprising:

generating a record in an advertiser database, the record including advertiser information contained in the request, wherein the advertiser information includes one or more of a compensation price, real-time advertiser availability, specific type of the advertisement, languages spoken by the advertiser and additional compensation incentives (see col 46, lines 30-37 "advertisement for a local restaurant).

As per claims 4 and 19 Kolls teaches:

The method of claim 1, but fails to teach wherein the compensating the one or more users further comprises: billing the advertiser a billing amount for each interaction with the one or more users and transferring the billing amount to the one or more users. However, Walker teaches a system where advertisers credit customers' accounts for listening to advertisers' sales presentations (see Walker column 4, lines 60-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Walker would present users with interactive advertisements offers via the Internet as advertisements links, as taught by Kolls in order to allow said users to interact with advertisers and being compensated for said interaction by billing advertisers and crediting users for said interaction.

As per claims 5 and 20 Kolls teaches:

The method of claim 4, but fails to teach wherein the billing the advertiser further comprises: measuring a duration of the interaction between the one or more users and the advertiser and calculating the billing amount for the advertiser based on the duration of the interaction and a time-based price paid by the advertiser. However, Walker teaches a system where an advertiser compensates users with money for listening to

an advertiser's 6-minute sale presentation (see column 8, lines 50-62). Therefore, the same rejection applied to claim 1 is also applied to claim 5.

As per claims 7 and 22 Kolls teaches:

The method of claim 1, wherein each selection from a user includes one or more of a category of advertisers, an advertiser payment price, advertiser type and advertisement (see column 46, lines 30-35).

As per claims 8, 23 and 32 Kolls teaches:

The method of claim 1, wherein  
selections from the one or more users, the method further comprises:  
receiving a request from a user for connection to an interactive advertisement system via a communications link (see column 47, lines 5-30);  
establishing a connection between the user and the interactive advertisement system in order to provide the user with an interaction with a chosen advertiser, and providing the user with a list of multiple advertisement types available from the interactive advertisement system (see col 46, lines 20-44).

As per claims 9, 24 and 37 Kolls teaches:

The method of claim 1, wherein prior to the receiving the one or more interactive advertising links include one or more interactive seminar links and following selection of a selected interactive seminar by the one or more users, the establishing the link *for real time communications* further comprises:

establishing a real-time video communications link between the one or more users and an advertiser of the selected interactive seminar (see col 47, lines 5-30)

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providing additional incentive-based links to the one or more users to provide additional feedback (see column 47, lines 35-55); and

enabling the one or more users to purchase one or more items advertised by the interactive seminar (see column 47, lines 35-55).

As per claims 10 and 25 Kolls teaches:

The method of claim 1, wherein following the establishing the link *for real time communications*, the method further comprises: providing additional incentive-based links to the one or more users to provide additional feedback (see column 47, lines 34-55); and

enabling the user to purchase one or more items advertised by the selected advertising link (see column 47, lines 5-30).

As per claims 11 and 26 Kolls teaches:

The method of claim 1, wherein the compensating the one or more users further comprises:

enabling a user to purchase an advertised product with limited availability, such that the user is compensated by having the ability to purchase the advertised product (see column 47, lines 5-30).

As per claims 12 and 27 Kolls teaches:

The method of claim 11, further comprising:

charging the user a predetermined amount such that the user is compensated by having the ability to purchase the advertised product (see column 47, lines 5-30) but fails to teach and transferring the predetermined amount to the advertiser. However,

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Walker teaches a system where advertisers compensate users for listening to advertisers' sale presentations and purchase products from said advertisers (see Walker column 6, lines 25-40; column 7, lines 55-60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Walker would present users with interactive advertisements offers via the Internet as advertisements links, as taught by Kolls in order to allow said users to interact with advertisers and being compensated for said interaction.

As per claims 13, 27, 35 and 38 Kolls teaches:

The method of claim 11, *wherein the link comprises* a telephone link between the user and the advertiser of the selected advertising link (see column 46, lines 20-37).

As per claims 14 and 29 Kolls teaches:

The method of claim 1, wherein providing the one or more interactive advertising links further comprises: receiving, from an advertiser interface, a request to activate an interactive seminar included among the one or more interactive advertising links, activating the seminar, such that one or more users can select and participate in the interactive seminar (see col 47, lines 5-30). Kolls does not expressly teach receiving, from the advertise interface, a request to de-activate the interactive seminar once the seminar is closed; and de-activating the interactive seminar, such that additional users can no longer participate in the interactive seminar. However, Official Notice is taken that it is old and well known in the advertiser art to let people know when a telemarketer's seminar is no longer available. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Kolls would



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de-active a seminar session that is no longer available and would let users know that said seminar is already closed, so said users do not waste their time trying to access a seminar that no longer exists.

As per claim 36, Kolls teaches:

The system of claim 31, wherein the communications link further comprises:

a wireless communications network interface to connect the user to the advertiser of the selected advertisement (see abstract).

As per claim 39, Kolls teaches:

The system of claim 31, further comprising:

a banner advertisement link procedure to generate an interactive advertisement link as a web page banner advertisement of an advertiser web site (see col 33, lines 45-67).

As per claim 40, Kolls teaches:

The system of claim 31, further comprising: a banner advertisement link procedure to generate an interactive advertisement link as a web page banner advertisement of a search engine web site (see col 33, lines 45-67).

As per claim 41, Kolls teaches:

The method of claim 1, wherein the one or more interactive advertisement links include one or more interactive polls, and wherein a user selecting a poll is compensated for providing a response to the poll (see column 47, lines 45-55).

As per claim 42, Kolls teaches:

The method of claim 1, further comprising: but fails to teach providing a web page including the one or more interactive advertising links to receive the one or more selections (see col 33, lines 45-67).

As per claim 43, Kolls teaches:

The method of claim 42, wherein the real-time communications link established is separate from a communication link used in the providing of the web page (see col 47, lines 5-30).

As per claim 44, Kolls teaches:

The method of claim 1, wherein the establishing of the real-time communications link comprises: conferencing together a first real-time communication link established to the one or more users and a second real-time communication link established to the advertiser of the selected advertising link (see col 47, lines 5-30).

4. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolls (US 6,807,532) in view of Walker (US 6,216,111) and further in view of Katz (US 6,323,894).

As per claim 45, Kolls teaches:

The method of claim 44, but fails to teach wherein the advertiser is concurrently connected to more than one user who selected the advertising link. However, Katz teaches that the advent of video phones has enable users to visually communicate from remote locations where employees or customers in different places can take part in interactive training sessions or seminars with no loss of time for travel (see column 2, lines 5-20). Therefore, it would have been obvious to a person of ordinary skill in the art

at the time the application was made, to know that Kolls would allow users to participate in interactive seminars, as taught by Katz in order to allow said users to be compensated for attending said seminars via the Internet.

***Response to Arguments***

5. Applicant's arguments filed 12/22/2006 have been fully considered but they are not persuasive. The Applicant argues that the combinations suggested in the Office Action would appear strange to an ordinary person because according to the Applicant, Walker discloses a system for telemarketing and the phone call made by the user of the Kolls's system is not a telemarketing call, as the user is to be connected to the advertiser, not the telemarketer for a sales presentation. The Examiner answers that Kolls teaches in col 47, lines 10-20 that "as an example, a user responds to an advertisement and as required routine 2300 connect the user by phone line to a business. While speaking with a sales representative the user orders a product". Therefore, contrary to Applicant's argument, Kolls teaches connecting to a telemarketer (*i.e.* a person that sells or advertise by telephone) using an interactive advertisement link and therefore, the combination between Kolls and Walker is not strange to a person of ordinary skill.

The Applicant argues that the combination suggested in the Office action appears strange because after a customer reads the advertisement displayed on the Kolls' system, it would appear unnecessary to have the customer to listen again to a recorded sales presentation. The Applicant further argues that it would appear unreasonable to an ordinary person that the customer would read the advertisement

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displayed on the system of Kolls and then select the advertisement to listen to a telemarketing recording and then answer automated questions to verify that the customer actually listened. The Examiner answers that Kolls teaches in col 47, lines 45-65 that users can respond to advertisement being displayed on a system and said respond initiates a survey that a user can fill and also teaches that a test is performed to determine if a user capable of responding to an interactive advertisement has in-fact responded to the displayed advertisement. Therefore, contrary to Applicant's argument, it is not unreasonable to an ordinary person that customer would read the advertisement displayed on the Kolls' system and then answers automated questions to verify that the customer actually listened, because Kolls teaches a customer reading an advertisement, responding to said advertisement and answering automated questions due to said response in order to verify that the customer actually listened.

The Applicant argues that training sessions (or seminars) are not telemarketing calls and typically a person pays a fee for being trained. Thus, the Applicant argues, that the disclosure of Walker related to telemarketing is not applicable to Kolls and Katz, when the disclosure of the cited references are viewed as a whole. Therefore, the Applicant argues that the rejection is based on impermissible hindsight. The Examiner answers that Applicant's specification equals an interactive seminar to an interactive advertisement where advertisers communicate with potential customers via a telephone without the need that said advertisers and customers meet face to face (see Applicant's specification paragraph 7). Walker equates an interactive seminar to telemarketing, where customers and advertisers communicate with each other in real time without the

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need that said advertiser and customer meet face to face (see col 1, lines 10-25). Therefore, contrary to Applicant's argument, the Examiner combination is not based on impermissible hindsight.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra  
March 7, 2007



RETTA YEHDEGA  
PRIMARY EXAMINER